



The proceeding currently scheduled for June 28, 2023 at 12:00 p.m. is adjourned to July 18, 2023 at 11:30 a.m. Moreover, if the parties have not submitted a Proposed Preliminary Injunction Order by July 14, 2023 at 12:00 p.m., then by 5:00 p.m. that day, they shall submit a joint letter regarding the status of their efforts to reach agreement on a Proposed Order.

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SO ORDERED.

By ECF

June 21, 2023 Jennifer H. Rearden, U.S.D.J.
Date: June 22, 2023

Honorable Jennifer H. Rearden
United States District Court
Southern District of New York
500 Pearl Street, Room 1010
New York, NY 10007

Alan Levine
President

Twyla Carter
Attorney-in-Chief
Chief Executive Officer

Adriene L. Holder
Chief Attorney
Civil Practice

Re: Forest, et al v. City of New York, et al, 23-CV-00743

Dear Judge Rearden:

We write pursuant to the Court's June 16, 2023 Order directing the parties to submit a joint letter regarding Plaintiffs' Motion for Preliminary Injunction. (ECF Nos. 6, 7), and to report to the Court that the parties: (1) agree there are no factual issues in dispute on the motion so no discovery or evidentiary hearing is required; (2) are close to reaching agreement on a Proposed Preliminary Injunction Order; and (3) request that the motion be scheduled for argument on July 14, 2023 after Noon so if we have not reached agreement by July 14, 2023, we can proceed with argument on the motion.

Plaintiffs' Motion for a Preliminary Injunction was fully submitted June 20, 2023. As part of their reply submission, Plaintiffs submitted a Proposed Preliminary Injunction Order (ECF No. 47). The Parties have discussed the Proposed Order and believe we will reach final agreement on it on or before July 14, 2023.

Procedural Background

On January 27, 2023, Plaintiffs filed a Class Action Complaint (ECF No. 1) alleging *inter alia* that Defendants are systemically out of compliance with their obligations under federal and state law to timely deliver Supplemental Nutrition Assistance Program ("SNAP") and Cash Assistance ("CA") benefits to thousands of low-income New Yorkers who are entitled to them. The Complaint alleges systemic problems with Defendants' processes and procedures, including those related to submission of applications/recertifications and completing interviews. Simultaneously with the filing of the Complaint, Plaintiffs also filed a Motion for Preliminary Injunction (ECF Nos. 6, 7), a Motion to Waive Bond for Preliminary Injunction (ECF Nos. 10, 11) and a Motion for Class Certification (ECF Nos. 8,9).

Defendants do not oppose Plaintiffs' Motion to Waive Bond for Preliminary Injunction (ECF Nos. 10, 11). The parties have submitted a Stipulation and a Proposed Order certifying a class (ECF Nos. 38, 39).

The Court's June 16, 2023 Order

The Court's June 16, 2023 Order directed the parties to submit a letter representing our respective positions on: (1) the need for a hearing on Plaintiffs' motion, (2) the extent to which discovery is necessary and/or appropriate in advance of any potential hearing, and (3) possible hearing dates. The parties agree that no discovery or evidentiary hearing is necessary for the motion for a preliminary injunction because there is no factual dispute with respect to that motion. However, as noted above, the Parties believe that, while there are remaining issues about current backlog metrics¹ as well as the elements of monitoring to be provided under the terms of the Preliminary Injunction, we will be able to resolve these issues, reach agreement, and submit a Proposed Preliminary Injunction Order to the Court on or before July 14, 2023, so that no hearing or argument will be needed on the motion.

Going Forward: Discovery

Although the parties agree that discovery is not needed on Plaintiffs Motion for Preliminary Injunction, Plaintiffs will be seeking discovery on issues not included in the Proposed Preliminary Injunction Order -- the systemic problems with Defendants' processes and procedures, including those related to submission of applications/recertifications and completing interviews. While Defendants are amenable to discussing such discovery as Plaintiffs may seek, Defendants reserve their rights to question the need for any such discovery and to oppose the specific scope thereof. The parties have been in frequent communication about the case, but they have not had a discovery conference pursuant to Fed. R. Civ. P. 26(f). The parties intend to have such a conference by July 14, 2023.

¹ Defendants have informed the Plaintiffs that a recently detected error in tracking the CA backlog resulted in an undercount of approximately 7,000 cases, but that that error should not significantly affect Defendants' end-of-year compliance target. Defendants will file a letter tomorrow morning explaining this error in greater detail. The parties remain optimistic that this recent disclosure will not significantly affect prospects for resolution of the Preliminary Injunction Order.

Respectfully submitted,

/s/ Kathleen M. Kelleher

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